

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**  

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**for February 1, 2006 PLANNING COMMISSION MEETING**

**P.A.S.:** Change of Zone #06002

**PROPOSAL:** A change of zone from AG Agriculture to H-3 Highway Commercial

**LAND AREA:** 7.64 Acres, more or less

**CONCLUSION:** This application is not in conformance with the Comprehensive Plan and is premature relative to the Comp Plan/LRTP update. The previous zoning application (CZ # 04022) addressed the loss of zoned land due to the road realignment.

<b><u>RECOMMENDATION:</u></b>	Denial
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** A 7.64 acre part of the remaining portion of Lot 1, Woodlawn West located in the NE 1/4 of Section 31, T 11 N, R 6 E of the 6<sup>th</sup> P.M., Lancaster County NE. Metes and Bounds description attached.

**LOCATION:** Generally located at N. W. 48<sup>th</sup> Street and Hwy 34.

**EXISTING ZONING:** AG Agriculture with a Heritage Center Special Permit (a “heritage center” allows additional uses by special permit for a historically significant era or activity).

**EXISTING LAND USE:** pasture/farming

**SURROUNDING LAND USE AND ZONING:**

North:	Ag land, zoned AG Agriculture and H - 3 Highway Commercial
South:	Ag land, zoned AG Agriculture
East:	Commercial land, zoned H-3 Highway Commercial
West:	Ag land, zoned AG Agriculture. “GrandPa John’s” Heritage Center Special Permit.

**ASSOCIATED APPLICATIONS:** None

**HISTORY:** Change of Zone 04022, from AG to H - 3 on 4.3 acres was approved by the Planning Commission on April 28, 2004. This has been on hold at the request of the same applicant since that date. Special permit for a Heritage Center approved in February 1994. Changed from County AA Rural and Public Use to AG Agriculture in the 1979 Zoning Update. The land to the east changed from AG to H-3 in April 1995 (cz 2892).

**COMPREHENSIVE PLAN SPECIFICATIONS:** This area is shown as Agriculture adjacent to Commercial on the Land Use Plan (pg F 23). This is in the Lincoln growth Tier III. A Comprehensive Plan Amendment was approved that reflects this area and suggests it be studied for suitability for Tier II (see italic). The 2025 Comprehensive Plan states:

*Northwest Tier Study: a review should be conducted of the Tier III growth areas, from approximately N.W. 27<sup>th</sup> Street, north of Highway 34, to West "O" Street, west of N.W. 56<sup>th</sup> Street, to determine which, if any areas, are appropriate for Tier II designation. Pg 32*

Existing businesses flourish and there are opportunities for new businesses within Lincoln and the incorporated communities. The Plan provides new employment locations and supports retention of existing businesses. Pg F 16

Encourage renovation and reuse of existing commercial centers. Infill commercial development should be compatible with the character of the area and pedestrian oriented. Maintain and encourage retail establishments and businesses that are convenient to, and serve, neighborhood residents, yet are compatible with, but not intrusive upon residential neighborhoods. Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas. Pg F 49

During the planning period, improvements are planned for Interstate 80 and many of the existing Nebraska State Highways in Lincoln and Lancaster County. These improvements can generally be categorized as the widening of roadways or construction of interchanges. All of the projects listed below are considered to have funds committed to their construction during the planning period:

US-34, West, city limits west to county line 4 lanes + turn lanes  
West "O" St., **N.W. 48<sup>th</sup> St.** to N.W. 56<sup>th</sup> St. 4 lanes + turn lanes

**UTILITIES:** No utilities are available

**TOPOGRAPHY:** Flat

**TRAFFIC ANALYSIS:** Highway 34/ Purple Heart highway is a Federal highway with limited access and a 50' from centerline building line district. Northwest 48<sup>th</sup>/Woodlawn is a city major street with a 50' from centerline building line district. The State of Nebraska is in the process of a project to realign N.W. 48<sup>th</sup> and N.W. 40<sup>th</sup> Streets to a common intersection on Hwy 34, on a portion of the applicants property.

**PUBLIC SERVICE:** This is served by the Malcolm Rural Fire District, County Sheriff, and Malcolm School District #148.

**REGIONAL ISSUES:** NA

**ENVIRONMENTAL CONCERNS:** No historic or environmental resources are noted on this. Much of the site is in the 500 year flood plain but not in the 100 year flood plain. The soil types at this site are classified as "Prime". The Airport Authority notes this is in an Airport Environs Noise District. This is under the approach to runway 14.

**AESTHETIC CONSIDERATIONS:** Entrance to the city. This is not in an identified Capital View Corridor.

**ALTERNATIVE USES:** Agriculture and continued use of the special permit.

**ANALYSIS:**

1. This proposal is for a change of zone from AG to H-3 on a 7.6 acre parcel to replace land lost due to road realignment. The Planning Commission has already recommended approval to a 4.30 acre portion of this parcel to replace currently zoned land and buildings being lost to acquisition by the Department of Roads of Right - of - Way for the realignment of NW 48<sup>th</sup> and NW 40<sup>th</sup> Streets at this location. About 2.4 acres appears to be directly impacted by the R O W acquisition and two buildings will be impacted by the new drive.
2. This is currently outside the Future Service Limits of the Comprehensive Plan and is shown as Tier III and Agriculture. The Plan calls for a Northwest Tier Study to determine appropriateness for Tier II. This is part of the LRTP update.
3. The potential for this area to be served by city services is being studied as part of the 2030 Comp Plan/LRTP update. This currently is being shown on the Draft Land Use map as Tier II, next to the Future Service area and in an area of a Potential Large Employer Opportunity Area across Hwy 34 to the north.
4. The landowner will be compensated by the State for land and damages in the road realignment.
5. The area of Special Permit # 1481 must be amended if this or the prior zoning application is approved.
6. If approved, the zoning should be pulled back at least 200 feet from the Hwy 34 to reflect the zoning previously approved and that this is an entryway to the City.

7. In light of the Planning Commission recommendation of approval of CZ# 04022 to accommodate the road realignment and the review of this area in the LRTP update, this application is premature and should be denied..

Prepared by:

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Mike DeKalb, AICP, 441-6370, [mdekalb@ci.lincoln.ne.us](mailto:mdekalb@ci.lincoln.ne.us)  
Planner  
January 23, 2006

**APPLICANT:** Lyle Loth ESP  
601 Old Cheney Road, Suite A  
Lincoln, NE 68512  
(402) 421-2500

**OWNER:** John Zakovec  
6625 N.W. 48<sup>th</sup> Street  
Lincoln, NE 68524  
(402) 470-2450

**CONTACT:** Lyle Loth ESP



2005 aerial

## Change of Zone #06002 NW 48th St & US Hwy 34

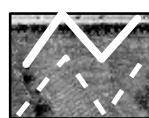
### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 31 T11N R06E



NW 56th St



Zoning Jurisdiction Lines

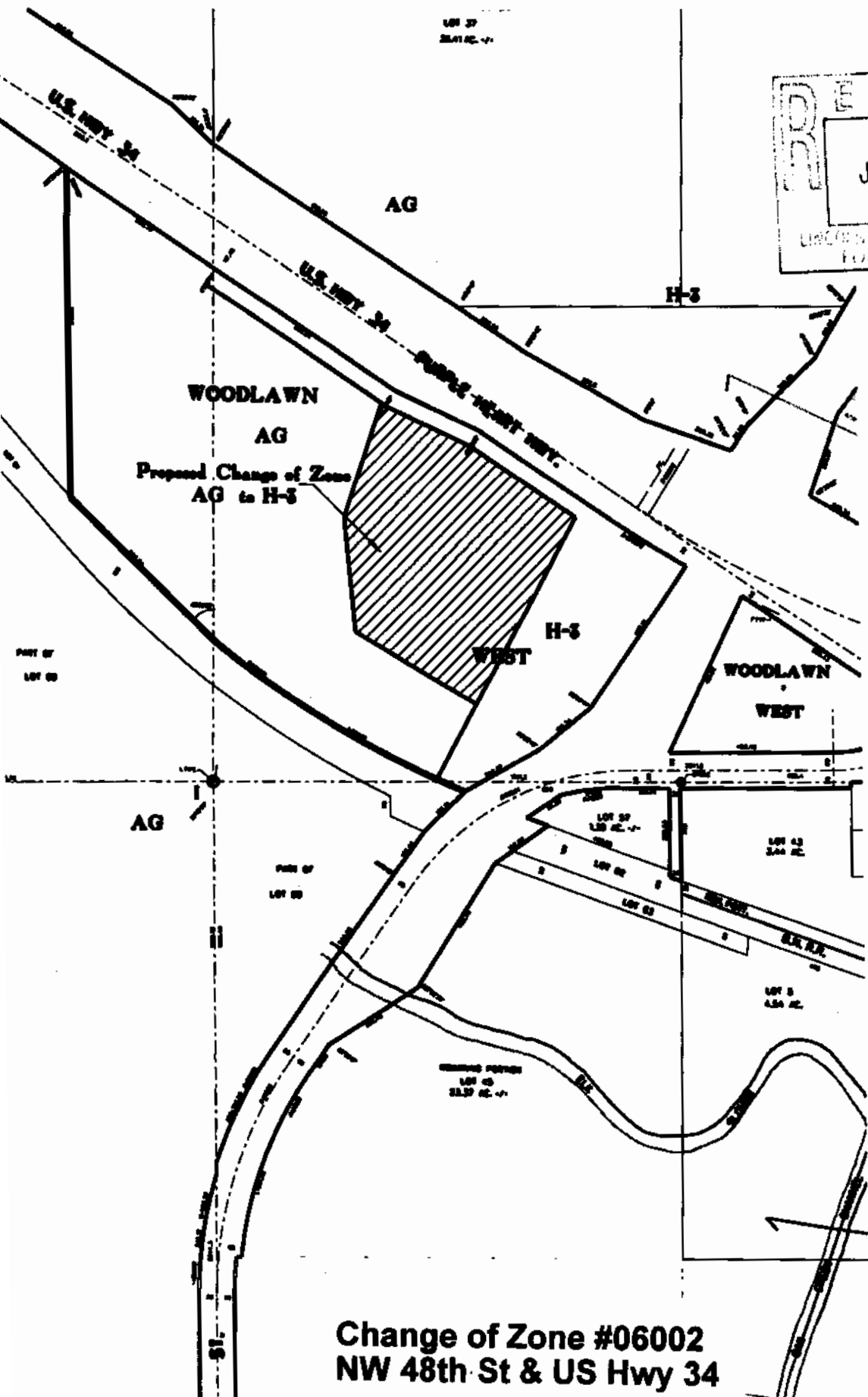
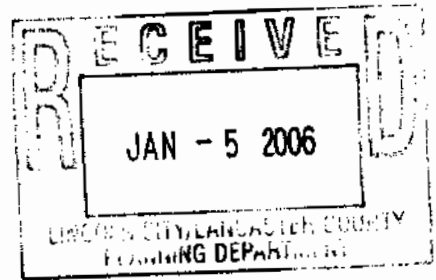
City Limit Jurisdiction

W Alvo Rd



NW 40th St

W Fletcher Av



**Change of Zone #06002  
NW 48th St & US Hwy 34**

A Metes and Bounds Description of a part of the remaining portion of Lot 1, Woodlawn West, located in the NE ¼ of Section 31, T. 11 N., R 6 E., of the 6<sup>th</sup> P.M., Lancaster County, Nebraska, more particularly described as follows:

Commencing at the SW corner of said NE ¼ and extending thence East along the south line of said NE ¼ a distance of 627.43 feet; thence N. 28° 32' 52" E., 246.19 feet to the point of beginning;

Thence continuing N. 28° 32' 52" E., 597.35 feet;

Thence N. 56° 06' 29" W., 353.78 feet;

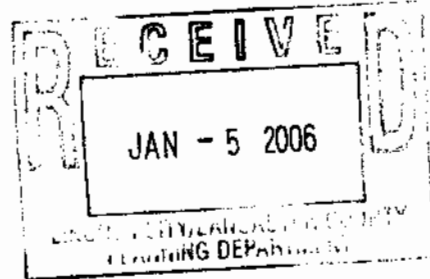
Thence N. 64° 43' 55" W., 261.70 feet;

Thence N. 56° 07' 55" W., 15.73 feet;

Thence S. 19° 00' 25" W., 335.41 feet;

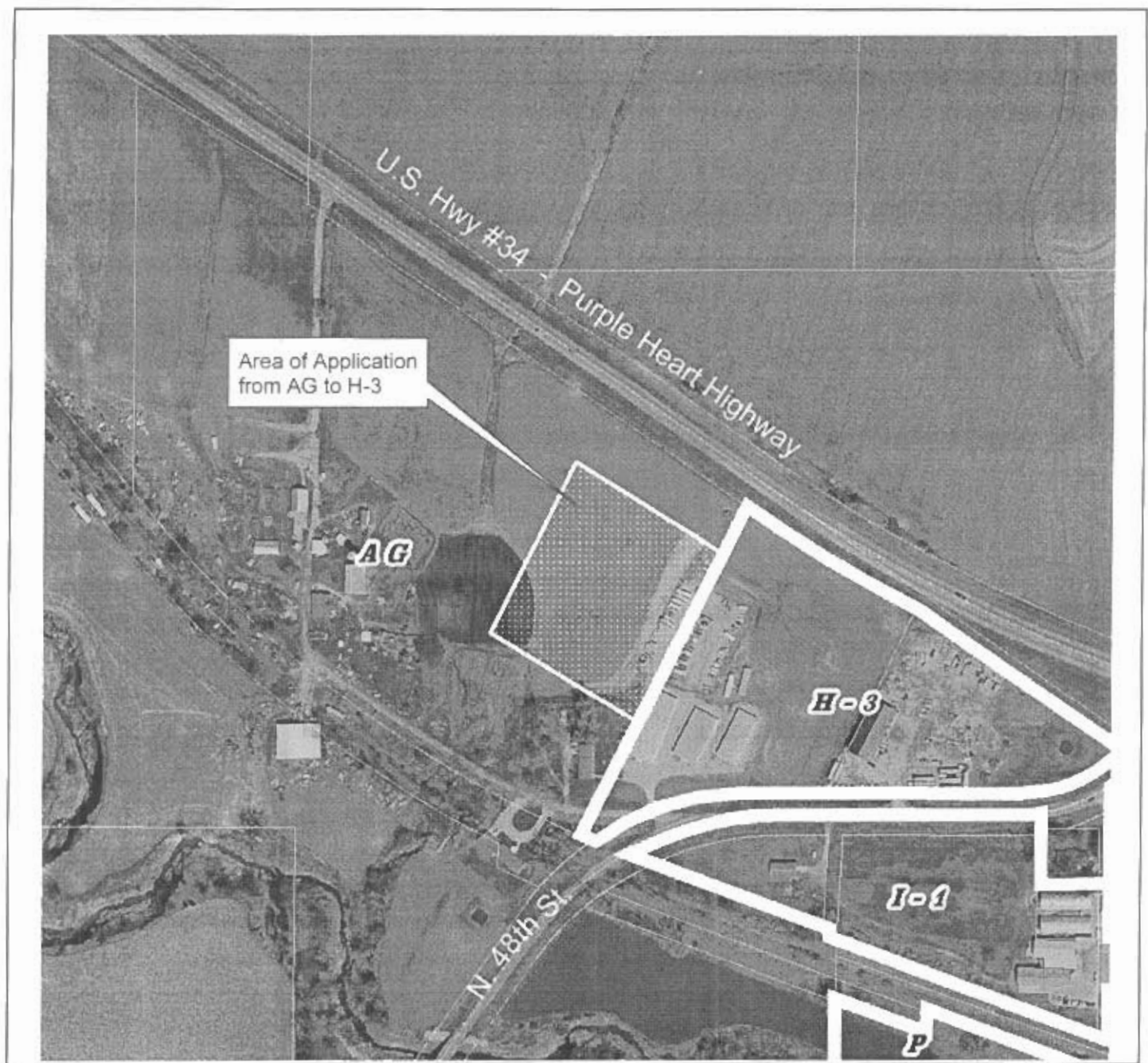
Thence S. 4° 58' 26" E., 320.00 feet;

Thence S. 58° 40' 36" E., 397.32 feet to the point of beginning, containing 7.64 acres, more or less.



**Change of Zone #06002  
NW 48th St & US Hwy 34**





**Change of Zone #04022**  
**4801 NW Hwy 34**

*Prior Application - March of 2002 aerial*  
*W. Alvo Rd.*

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
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I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 31 T11N R6E

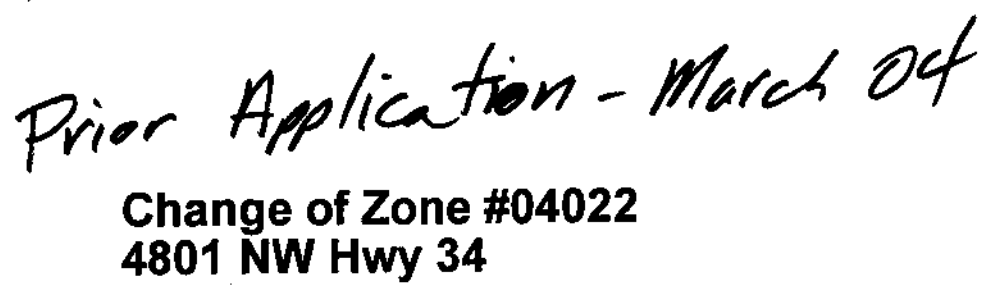


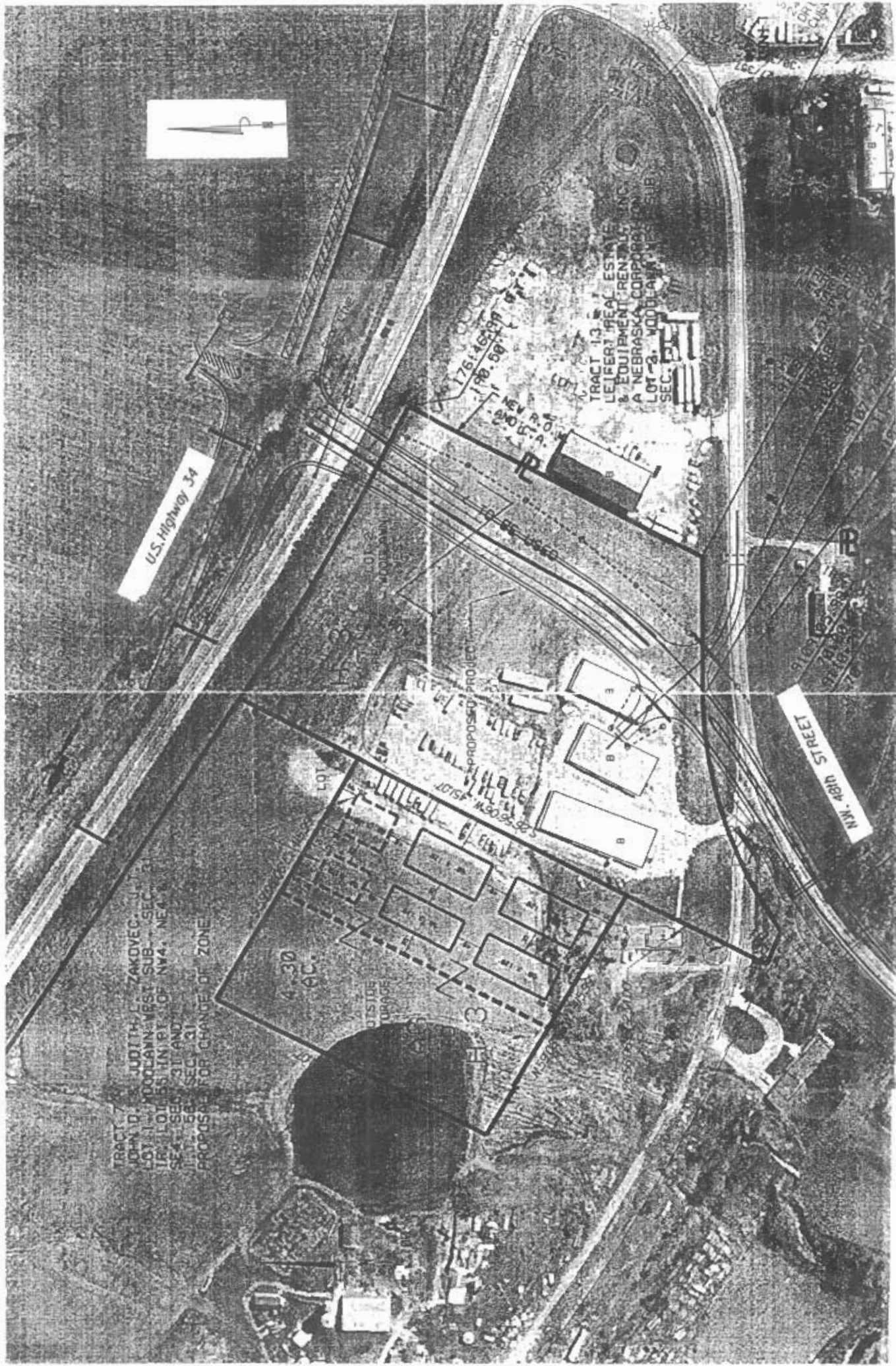
Zoning Jurisdiction Lines  
 City Limit Jurisdiction



W. Fletcher Ave.







Change of Zone #04022  
4801 NW Hwy 34

Prior Application - Mar 04



**LYLE L. LOTH, P.E./L.S.**

File No. 00-0016  
January 5, 2006

Planning Department  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68510

Suite A - 601 Old Cheney Road  
Lincoln, NE 68512

Phone (402) 421-2500  
Fax (402) 421-7096

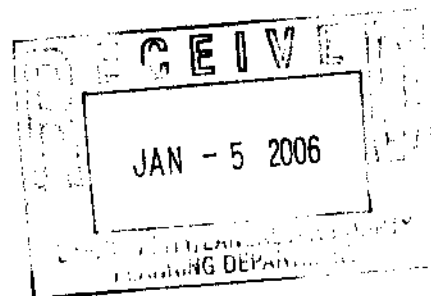
Email: lyle@espeng.com

RE: Zakovec—NW 48<sup>th</sup> & Hwy. 34

On behalf of our client, John Zakovec, we are requesting a change of zone from AG to H3 to offset the loss of H3 zoning that was taken with the acquisition of right of way by the Department of Roads. Included with this letter are the application, filing fee and site plan with legal description. Please let me know if you have any questions or concerns. Thank you for your assistance.

**E-S-P**  
**Engineering-Surveying-Planning**

  
**Lyle L. Loth**



**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT  
INTER-OFFICE COMMUNICATION**

<b>TO:</b> Mike DeKalb	<b>DATE:</b> January 11, 2006
<b>DEPARTMENT:</b> Planning	<b>FROM:</b> Chris Schroeder
<b>ATTENTION:</b>	<b>DEPARTMENT:</b> Health
<b>CARBONS TO:</b> EH File EH Administration	<b>SUBJECT:</b> Zakovec CZ #06002

The Lincoln-Lancaster County Health Department has reviewed the change of zone application and does not object to the approval of this application.

## Memorandum

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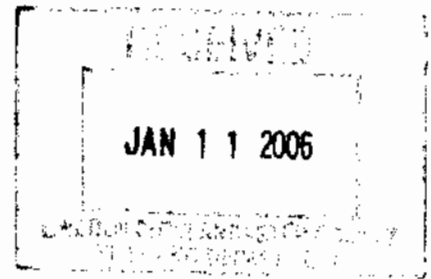
**To:** Mike DeKalb, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities  
**Subject:** Zakovec Change of Zone #06002, Northwest 48th and Highway 34  
**Date:** January 17, 2006  
**cc:** Randy Hoskins

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the Zakovec Change of Zone #06002, Northwest 48th and Highway 34 from AG to H-3. Public Works has no objections.



AREA 2  
SERVICE CENTER

R.R. 1 BOX 56  
ROCA, NEBRASKA 68430  
402/423-3855  
FAX 402/423-8090



January 9, 2006

Mike Dekalb, Project Planner  
555 S. 10<sup>th</sup> St. #213  
Lincoln, NE 68508

RE: Schuster

Dear Mike,

I have reviewed the subject plat and see no need for easements at this time.

Thanks for your consideration.

Sincerely,

Rick Volmer, Staking Engineer

CHARLES THONE  
DONALD H. ERICKSON  
WM. E. MORROW, JR.  
DANIEL B. KINNAMON  
THOMAS J. GUILFOYLE  
VIRGIL K. JOHNSON  
CHARLES V. SEDERSTROM  
CHARLES D. HUMBLE  
ALAN M. WOOD  
WILLIAM F. AUSTIN  
JOHN C. BROWNIGG  
THOMAS J. CULHANE  
RICHARD J. GILLOON  
SAMUEL E. CLARK  
GARY L. HOFFMAN  
MARK M. SCHORR  
JERALD L. RAUTERKUS  
WILLIAM T. FOLEY  
PATRICK R. GUINAN

LAW OFFICES  
**ERICKSON & SEDERSTROM, P.C.**  
A LIMITED LIABILITY ORGANIZATION

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301 SOUTH 13<sup>TH</sup> STREET  
LINCOLN, NEBRASKA 68508-2571  
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10330 REGENCY PARKWAY  
DRIVE, SUITE 100  
OMAHA, NEBRASKA 68114  
(402) 397-2200

January 19, 2006

Mr. Lyle L. Loth  
ESP, Inc.  
Suite A, 601 Old Cheney Road  
Lincoln, NE 68512

Re: Zakovec-NW 48th & Hwy. 34  
Our File No.: 24751.49440

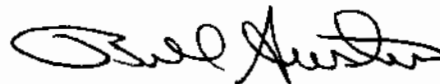
COPY

Dear Lyle:

I'm writing on behalf of the Lincoln Airport Authority. Enclosed is a copy of an Avigation Easement that the Airport Authority would request that your clients execute in conjunction with the approval of Change of Zone 06002 (AG to H-3). The property in question is located within the Airport Environs Noise District and is subject to the provisions contained in Chapter 27.58 of the Lincoln Municipal Code. This would require the provision of Avigation Easements for any subdivision, community unit plan, special permit, use permit, or building permit within the area and, while not specifically required for a change of zone, it would be more convenient to have one Avigation Easement covering the property at this time, rather than obtain separate easements as special permits or building permits are issued.

If your clients are agreeable to executing the Easement, would you please have them do so, and when executed, return it to me for filing at the time of approval of Change of Zone 06002.

Sincerely,



William F. Austin

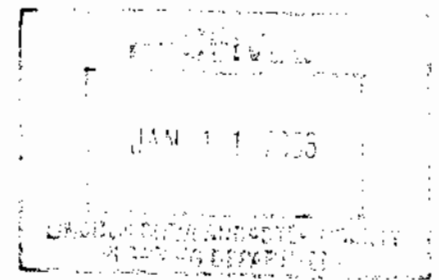
WFA:rln  
Enclosure  
c: Jon Large, Deputy Director of Engineering  
Mike DeKalb, Project Planner

JAN 20 2006





www.lincolnaairport.com



January 10, 2006

Mr. Mike DeKalb, Project Planner  
City-County Planning  
555 So. 10th  
Lincoln, NE 68508

Project Name: Zakovec - NW 48<sup>th</sup> & HWY 34  
Change of Zone (PUD) #06002 AG to H-3

Mr. Dekalb:

After reviewing the subject submittal, I have the following comments:

This area is within the Airport Environs Noise District and subject to the provisions contained in Chapter 27.58 of the Lincoln Municipal Code. This will require an appropriate Avigation and Noise Easement and Covenant Agreement as a condition of approval for this permit.

In addition, it appears that a number of the permitted uses in an H-3 zone are required to incorporate acoustical features as a condition of Building permit issuance, as described in Section 27.58.060 of the same chapter.

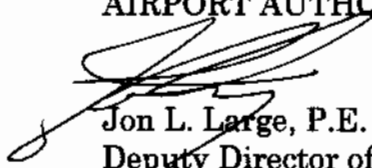
This area is located within an inner approach area, as defined in Chapter 27.59 and shown on the Lincoln Airport Zoning Map. This will require height permits for construction in the area, per Section 27.59.060 of Chapter 27.59.

Finally, given the types of construction we would anticipate in this area and its proximity to Runway 14, building proponents should also complete and submit a Form 7460-1C, Notice of Proposed Construction or Alteration, to the FAA. This submittal to the FAA begins an airspace review process to ensure that the proposal does not create a hazard to air navigation.

If you have any questions concerning my comments, please advise.

Sincerely,

AIRPORT AUTHORITY



Jon L. Large, P.E.  
Deputy Director of Engineering

JLL/lb

cc: Bill Austin, w/enclosures

Lincoln Airport P.O. Box 80407 Lincoln NE 68501 (402) 458-2400 FAX: (402) 458-2490